

Message Text

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ACTION EA-09

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C O N F I D E N T I A L KUALA LUMPUR 7347

E.O. 11652: GDS
TAGS: ENRG, EALR, MY
SUBJECT: PETROLEUM: GOVERNMENT INTRODUCES BILL TO REPEAL
MANAGEMENT SHARES ARTICLE OF PETROLEUM DEVELOPMENT ACT, 1974

REF: KUALA LUMPUR 6802

1. BEGIN UNCLASSIFIED AS PRIME MINISTER INDICATED EARLIER
(REFTEL), GOVERNMENT ON DECEMBER 16 INTRODUCED BILL TO PARLIAMENT TO
REPEAL OFFENSIVE "MANAGEMENT SHARES" (SECTION 6A) PROVISION
OF PETROLEUM DEVELOPMENT ACT, AS AMENDED. LANGUAGE IS STRAIGHT-
FORWARD: "SECTION 6A OF THE PRINCIPAL ACT IS REPEALED."

2. BILL WOULD ALSO AMEND THAT PROVISION OF THE ACT WHICH
REQUIRES A LICENSE FROM THE PRIME MINISTER FOR ANY FIRM
OTHER THAN PETRONAS TO PROCESS OR REFINES PETROLEUM OR TO
MANUFACTURE PETRO-CHEMICAL PRODUCTS FROM PETROLEUM TO PER-
MIT THE PRIME MINISTER TO EXEMPT ANY FIRM OR CLASS OF
FIRMS FROM THIS REQUIREMENT. THIS AMENDMENT WILL PERMIT
PETRONAS, THROUGH THE PM, TO INDICATE THOSE AREAS WHICH ARE
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NOT OF INTEREST TO PETRONAS, THEREBY REMOVING PRIVATE SECTOR
UNCERTAINTY AND CONCERN.

3. FINALLY, THE BILL ADDS A SECTION WHICH PROVIDES FOR
PAYMENT BY GOVERNMENT FOR RIGHTS UNDER LICENSE, LEASE OR
AGREEMENT WHICH CEASE TO HAVE EFFECT UNDER THE ACT. IN

EFFECT THIS PROVIDES COMPENSATION IN CASE OF NATIONALIZATION AS REQUIRED UNDER THE CONSTITUTION, THEREBY REMOVING A LEGAL IMPEDIMENT TO THE VALIDITY OF THE ACT ITSELF AND ALSO, IN THE PRESENT CASE, OF HAVING THE RIGHTS GRANTED UNDER THE PRODUCTION SHARING AGREEMENTS TO CONSIDERED COMPENSATION FOR THOSE RIGHTS GRANTED UNDER THE FORMER PETROLEUM REGIME WHICH NOW ARE VOID. END UNCLASSIFIED

4. COMMENT: GOM'S ACTION ON THIS MATTER SHOULD IMPROVE THE INVESTMENT CLIMATE CONSIDERABLY AND REMOVES A SIGNIFICANT IMPEDIMENT TO THE GOM MEETING ITS PRIVATE SECTOR INVESTMENT TARGETS UNDER THE THIRD MALAYSIA PLAN. PERHAPS MORE REMARKABLE, THE ACTION REFUTES RECENT COMMON WISDOM THAT DOMESTIC POLITICAL CONSIDERATIONS PRECLUDED THE REPEAL OF THE MANAGEMENT SHARES PROVISION AT THIS TIME. WE ATTRIBUTE THE GOM'S ABILITY TO OVERCOME THESE CONSIDERATIONS REGARDING MANAGEMENT SHARES TO TWO BASIC POINTS: FIRST, THE REALIZATION BY GOVERNMENT THAT THE MANAGEMENT SHARES ARTICLE WAS A SIGNIFICANT OBSTACLE TO THE FULFILLMENT OF PRIVATE SECTOR INVESTMENT TARGETS AND SECOND, THAT THE PRIME MINISTER IS NOW IN A STRONGER POSITION VIS-A-VIS THE ECONOMIC NATIONALISTS

REPRESENTED ESSENTIALLY BY FINANCE MINISTER TENGKU RAZALEIGH HAMZAH.

5. WHILE THE PM INITIALLY FELT HE NEEDED RAZALEIGH'S SUPPORT IN ORDER TO CONSOLIDATE HIS OWN POSITION HE NOW MAY VIEW RAZALEIGH AS MORE OF A LIABILITY THAN AN ASSET RAZALEIGH'S FAILURE TO TELL THE PM THE TRUTH ABOUT THE STATUS OF THE PETROLEUM NEGOTIATIONS LED TO WHAT MANY SEE AS CONFIDENTIAL

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HIS UNCEREMONIOUS SACKING FROM PETRONAS AND LOSS OF INFLUENCE WITH HUSSEIN. FURTHERMORE, HUSSEIN HAS RECEIVED STRONG SUPPORT FROM DEPUTY PM MAHATHIR, AS WELL AS OTHER COMPETITORS OF RAZALEIGH, IN EFFECTIVELY CURTAILING RAZALEIGH'S INFLUENCE. UNDERHILL

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